

COUNTY OF LOS ANGELES - BOARD OF SUPERVISORS

EXECUTIVE OFFICE



SACHI A. HAMAI
EXECUTIVE OFFICER

February 22, 2011

TO: Mayor Michael D. Antonovich
Supervisor Gloria Molina
Supervisor Mark Ridley Thomas
Supervisor Zev Yaroslavsky
Supervisor Don Knabe

FROM: Sachi A. Hamai
Executive Officer

SUBJECT: FINDINGS OF ALLEGATIONS OF COUNTY LOBBYIST CODE VIOLATION BY
ESTHER FELDMAN, FELDMAN & ASSOCIATES, COMMUNITY
CONSERVANCY INTERNATIONAL (CCI), AND THE CITY OF WHITTIER

The Executive Office received several letters from Geralyn L. Skapik, an attorney with the Claremont Land Group representing the interest of the Open Space Legal Defense Fund, requesting that the Executive Office investigate an alleged County Lobbyist Code Violation.

An investigation was conducted in response to the allegation that Esther Feldman, Feldman & Associates, Community Conservancy International (CCI), and the City of Whittier had violated the Los Angeles County Lobbyist Ordinance. The investigation included the review of activities and communications made by Ms. Feldman pursuant to her contract with the City of Whittier, and prior to the date of her registration as a County Lobbyist.

It was determined that the allegations made were not substantiated, therefore no penalty provisions of the ordinance will be imposed against Esther Feldman, Feldman & Associates, Community Conservancy International (CCI), or the City of Whittier.

If you require any additional information with respect to this matter, please call me or your staff may contact Gary Syssock at extension 4-4373.

SAH:dg:ms

Attachment

c: Geralyn L. Skapik, Claremont Land Group
Esther Feldman, Feldman and Associates
Stephen W. Helvey, City of Whittier
Nancy Takade, County Counsel
Patrick Ogawa, Executive Office
Gary Syssock, Executive Office

ATTACHMENT

Determination whether Esther Feldman met the definition of a County Lobbyist prior to her registration on December 20, 2010. The County Lobbyist Ordinance (County Code Chapter 2.160) requires that a person or entity register as a County lobbyist, lobbying firm, or lobbyist employer, within 10 days of acquiring such status. Below is subsection 2.1 of the County's Lobbyist Rules, which describes the circumstances under which an individual is considered to be a County Lobbyist, thus triggering the registration requirement:

2.1 Lobbyist.

A. A lobbyist is any individual who is employed, contracts or otherwise receives compensation, other than reimbursement for reasonable travel expenses, to communicate directly, or through agents, employees or subcontractors, with any County official for the purpose of influencing official County action, if a substantial or regular portion of the activities for which he or she receives such compensation is for the purpose of influencing official County action.

B. To determine whether or not the activities for which an individual is compensated for the purpose of influencing official County action constitutes "substantial" or "regular," two tests shall be applied. A person who meets the requirements of either of the following tests shall be considered a County lobbyist.

1. The compensation test: The person receives or becomes entitled to receive at least \$1,000 in compensation in any calendar month for influencing official County action. Compensation received by a full time employee engaged primarily to perform services other than influencing official action, or for administrative testimony, shall not be included in computing the amount of compensation in this test.

2. The contact test: The person receives or becomes entitled to receive any amount of compensation for engaging in direct communication, other than administrative testimony, with County officials for the purpose of influencing official County action on at least five separate occasions in any three consecutive calendar months.

Based on the documents received and the interviews conducted with Ms. Feldman, and staff from the City of Whittier and the County's Department of Parks and Recreation, staff applied the County's Compensation and Contact test, as set forth above, and found that Ms. Feldman's activities did not rise to the level established by the County's Lobbyist Ordinance.

The documents reviewed included the fee schedule for Ms. Feldman's contract with the City and Ms. Feldman's invoices for services rendered during the period in question. These documents do not demonstrate that Ms. Feldman received any compensation for engaging in direct communication with County officials for the purpose of influencing official County action. (See Section 2.1 B. 2 of the Rules Relative to the County of Los Angeles Lobbyist Ordinance). This was corroborated during the interviews of Ms. Feldman and Stephen Helvey of the City of Whittier. All indications are that Ms. Feldman was only paid for consulting services for the City of Whittier.

Esther Feldman's activities and her communications with "County officials" were not attempts of "Influencing official County action" because they were not of the nature of promoting, supporting, influencing, modifying, opposing or delaying any official action. Her activities and communications during the period were of the nature of fact finding, research, and clarification for the City of Whittier. In addition, we determined that neither of the thresholds under the County's Compensation and Contact tests were met. Our investigation revealed that there were an insufficient number of direct communications with County Officials to require lobbyist registration, i.e., there were less than five communications in three consecutive calendar months. Additionally, there was insufficient evidence showing that there was any compensation received by Ms. Feldman attributable to actual lobbying activities directed towards the County. The compensation test is not met unless Ms. Feldman received or was entitled to receive \$1000 to lobby the County in a single calendar month.

Finding: **The allegations against Esther Feldman, CCI, and the City of Whittier of violations of Lobbyist Ordinance were not substantiated**